

ORIGINAL  
FILED  
US JUN -5 PM 2:58

**E-filing**

RICHARD W. VIEKING  
CLERK OF THE NORTHERN DISTRICT OF CALIFORNIA

**EMC**

1 JONATHAN M. KAUFMAN, ESQ. (California State Bar No. 104576)  
 2 The Law Offices of Jonathan M. Kaufman  
 220 Montgomery Street, Suite 976  
 3 San Francisco, CA 94104  
 4 Telephone: (415) 956-4765  
 Facsimile: (415) 956-1664  
 E-Mail: [jonathan-kaufman@sbcglobal.net](mailto:jonathan-kaufman@sbcglobal.net)

5 Attorney for Plaintiffs

6 UNITED STATES DISTRICT COURT  
 7 FOR THE NORTHERN DISTRICT OF CALIFORNIA

8 EFREN TAYAG and MARIA TAYAG,

**CV** Case No. **08**

**2815**

9 COMPLAINT FOR DECLARATORY  
 10 JUDGMENT AND INJUNCTION

11 vs.

12 ROSEMARY MELVILLE, District Director,  
 13 United States Citizenship and Immigration  
 Services, and MICHAEL B. MUKASAY,  
 Attorney General,

14 Defendants

15 \_\_\_\_\_ /  
 16 Plaintiffs allege:

17 1. This action is brought pursuant to the provisions of 28 U.S.C. § 1331 and 5 U.S.C.

18 §§ 701 - 706.

19 2. Plaintiffs Efren Tayag and Maria Tayag are husband and wife. Efren Tayag is a citizen  
 20 of the United States and plaintiff Maria Tayag is a citizen of the Philippines.

21 3. Defendant Rosemary Melville is the District Director of the San Francisco district office  
 22 of the United States Citizenship and Immigration Services, (USCIS), a component of the Department  
 23 of Homeland Security. Defendant Michael B. Mukasey is the Attorney General of the United States.  
 24 Defendants are charged with the duty to administer and enforce the Immigration and Nationality Act,  
 25 including the adjudication of a visa petition filed by a United States citizen pursuant to 8 U.S.C.  
 26 §1154(a)(1)(A)(i) , and the adjudication of an application for adjustment of status to lawful  
 27

1 permanent resident filed by an alien pursuant to 8 U.S.C. §§1255.

2 4. 8 U.S.C. §1154(a)(1)(A)(i) vests defendant Rosemary Melville with the authority to accord  
3 immediate relative status under 8 U.S.C. §1151(b)(2)(A)(i) to the spouse or child of a United States  
4 citizen. To accord immediate relative status a United States citizen is required to file a petition on  
5 a Form I-130 with the USCIS in accordance with the provisions of 8 C.F.R. §204.1.

6 5. 8 U.S.C. §§1255(a) vests defendant Rosemary Melville with discretion to adjust an alien's  
7 status to that of an alien lawfully admitted for permanent residence. To apply for adjustment of status  
8 an alien is required to file an application on Form I-485 in accordance with the provisions of 8  
9 C.F.R. §245.2.

10 6. On February 28, 2003 plaintiff Efren Tayag petitioned the USCIS to accord preference  
11 classification on plaintiffs' daughter, Marie Cynthia Kristel Engay Tayag. The petition was upgraded  
12 to a immediate relative petition when plaintiff Efren naturalized, and on September 9, 2004 the  
13 petition was transferred by the USCIS to the USCIS office in San Francisco, California for  
14 adjudication. See attached Exhibit A.

15 7. On December 9, 2004 plaintiff Efren Tayag petitioned the USCIS to accord immediate  
16 relative status on plaintiff Maria Tayag, and on that date plaintiff Maria Tayag simultaneously  
17 applied for adjustment of status. See attached Exhibit B.

18 8. The USCIS has not adjudicated plaintiff Efren Tayag's visa petitions or plaintiff Maria  
19 Tayag's application for adjustment of status, and the petitions and application remain pending at the  
20 USCIS office in San Francisco, California.

21 9. Defendants have breached their legal duty to adjudicate plaintiffs' petitions and  
22 application, and defendants' failure to adjudicate plaintiffs' petitions and application is unlawful,  
23 arbitrary and capricious.

24 10. There is no administrative appeal from defendants' decision.

25 11. There is a real and actual controversy between the parties. Plaintiffs have no adequate  
26 remedy at law. Plaintiffs have suffered and will continue to suffer irreparable injury as result of the

acts of the defendant complained herein.

WHEREFORE, plaintiffs pray judgment.

1. Declaring that defendant Rosemary Melville has violated 8 U.S.C. §1154(a)(1)(A)(i) and 8 C.F.R. §204.1 in her adjudication of plaintiff Efren Tayag's visa petitions.

2. Declaring that defendant Rosemary Melville has violated 8 U.S.C. §1255(a) and 8 C.F.R. §245.2 in her adjudication of plaintiff Maria Tayag's application for adjustment of status.

3. Preliminarily and permanently enjoining defendants, their agents, and delegates to adjudicate plaintiffs' petitions and application forthwith.

4. Awarding plaintiffs their costs and reasonable attorneys fees incurred in this action;

5. Granting such other and further relief as may be appropriate.

Dated: June 5, 2008

~~JONATHAN M. KAUFMAN  
Attorney For Plaintiffs~~

## **EXHIBIT A**

## U. S. Citizenship and Immigration Services

TEXT ONLY HOME WHAT'S NEW FAQ SEARCH GLOSSARY FEEDBACK TRANSLATE PRINT PAGE

### Immigration Services and Benefits

National Customer Service Call Center (NCCS)

Call Scripts and Information

Case Status Online

Case Status Search

Register

Login

Case Status FAXes

### Case Status

Receipt Number: wac0313151312

Application Type: I130, IMMIGRANT PETITION FOR RELATIVE, FIANCE(E), OR ORPHAN

#### Current Status:

On September 9, 2004, we transferred your I130 IMMIGRANT PETITION FOR RELATIVE, FIANCE(E), OR ORPHAN to an office in SAN FRANCISCO, CA for processing. That office will notify you when they take action on your case. You should receive a notice informing you that your case has been transferred to a local office. Please call the National Customer Service Center at (800) 375-5283, to receive information about local office processing times.

---

If you have questions or concerns about your application or the case status results listed above, or if you have not received a decision or advice from the USCIS within the projected processing time frame\*, please contact the National Customer Service Center.

National Customer Service Center (800) 375-5283

\* The projected processing time frame can be found on the receipt notice that you received from the USCIS.



10-06-2004 01:46 PM EDT

## Petition for Alien Relative

DO NOT WRITE IN THIS BLOCK - FOR EXAMINING OFFICE ONLY

Case ID#  A#  G-28 or Volag#	Action Stamp	Fee Stamp
Section of Law  <input type="checkbox"/> 201 (b) spouse <input type="checkbox"/> 203 (a)(1) <input type="checkbox"/> 201 (b) child <input type="checkbox"/> 203 (a)(2) <input type="checkbox"/> 201 (b) parent <input type="checkbox"/> 203 (a)(4) <input type="checkbox"/> 203 (a)(5)	Petition was filed on: _____  <input type="checkbox"/> Personal Interview <input type="checkbox"/> Previously Forwarded <input type="checkbox"/> Pet. <input type="checkbox"/> Ben. "A" File Reviewed <input type="checkbox"/> Stateside Criteria <input type="checkbox"/> Field Investigations <input type="checkbox"/> I-485 Simultaneously <input type="checkbox"/> 204(a)(2)(A)Resolved <input type="checkbox"/> 204 (h) Resolved	
AM CON: _____  Remarks:		

**A. Relationship**

1. The alien relative is my:  
 Husband/Wife     Parent     Brother/Sister     Child     Yes     No     Yes     No

**B. Information about you**

1. Name (Family name in CAPS) <b>TAYAG, Efren Zapata</b>	(First)	(Middle)
2. Address (Number and Street) <b>518 Minna Street</b>	(Apartment Number) <b>502</b>	
(Town or City) <b>San Francisco</b>	(State/Country) <b>CA USA</b>	(ZIP/Postal Code) <b>94103</b>
3. Place of Birth (Town or City) <b>Manila</b>	(State/Country) <b>Philippines</b>	
4. Date of Birth (Mo/Day/Yr) <b>07-20-38</b>	5. Sex <input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	6. Marital Status <input checked="" type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Single <input type="checkbox"/> Divorced
7. Other Names Used (including maiden name) <b>None</b>		
8. Date and Place of Present Marriage (if married) <b>01-16-95; Caloocan City Philippines</b>		
9. Social Security Number <b>358-76-8980</b>	10. Alien Registration Number (if any) <b>41-240-867</b>	
11. Names of Prior Husbands/Wives <b>Estelita Pineda</b>	12. Date(s) Marriage(s) Ended <b>12-15-94</b>	

**C. Information about your alien relative**

1. Name (Family name in CAPS) <b>TAYAG, Marle Cynthia Kristel Engay</b>	(First)	(Middle)
2. Address (Number and Street) <b>11B City Camp Alley</b>	(Apartment Number)	
(Town or City) <b>Baguio City</b>	(State/Country) <b>Philippines</b>	(ZIP/Postal Code)
3. Place of Birth (Town or City) <b>Baguio City</b>	(State/Country) <b>Philippines</b>	
4. Date of Birth (Mo/Day/Yr) <b>07-27-85</b>	5. Sex <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	6. Marital Status <input type="checkbox"/> Married <input type="checkbox"/> Widowed <input checked="" type="checkbox"/> Single <input type="checkbox"/> Divorced
7. Other Names Used (including maiden name) <b>None</b>		
8. Date and Place of Present Marriage (if married) <b>N/A</b>		
9. Social Security Number <b>None</b>	10. Alien Registration Number (if any) <b>None</b>	
11. Names of prior Husbands/Wives <b>None</b>	12. Date(s) Marriage(s) Ended	

## 13. If you are a U.S. citizen, complete the following:

My citizenship was acquired through (check one)

 Birth in the U.S. Naturalization (Give number of certificate, date and place it was issued) Parents

Have you obtained a certificate of citizenship in your own name?

 Yes     No

If "Yes", give number of certificate, date and place it was issued

## 13. Has your relative ever been to the U.S.?

 Yes     No

## 14. If your relative is currently in the U.S., complete the following: He or she last arrived as a (visitor, student, stowaway, without inspection, etc.)

**N/A**

Arrival/Departure Record (I-94) Number

Date arrived (Month/Day/Year)

Date authorize stay expired, or will expire as shown on Form I-94 or I-95

15. Name and address of present employer (if any)  
**N/A**

Date this employment began (month/day/year)

## 16. Has your relative ever been under immigration proceedings?

Yes     No    Where \_\_\_\_\_ When \_\_\_\_\_  
 Exclusion     Deportation     Rescission     Judicial Proceedings

0158

INITIAL RECEIPT

RESUBMITTED

RELOCATED

COMPLETED

Rec'd	Sent	Approved	Denied	Returned

5. (Continued) Information about your alien relative

5. List husband/wife and all children of your alien relative (if your relative is your husband/wife, list only his or her children)

(Name)	(Relationship)	(Date of Birth)	(Country of Birth)
N/A			

Address in the United States where your relative intends to reside  
(Number and Street)

518 Minna Street, Apt No 502

(Town or City)

(State)

CA

Your relative's address abroad

(Number and Street)

(Town or City)

(Province)

(Country)

(Phone)

11B City Camp Alley

Baguio City

Philippines

074-445-4703

If your relative's native alphabet is other than Roman letters, write his/her name and address abroad in the native alphabet:

(Name)

(Number and Street)

(Town or City)

(Country)

N/A

If filing for your husband/wife, give last address at which you both lived together:

(Name)

(Number and Street)

(Town or City)

(Province)

(Country)

From

(Month)

(Year)

To

(Month)

(Year)

Check the appropriate box below and give the information required for the box you checked:

Your relative will apply for a visa abroad at the American Consulate in

Manila, Phillipines

(City)

(Country)

Your relative is in the United States and will apply for adjustment of status to that of a lawful permanent resident in the office of the Immigration and Naturalization Service at

(City)

(State)

If your relative is not eligible for adjustment of status, he or she will

apply for a visa abroad at the American Consulate in

(City)

(Country)

(Designation of a consulate outside the country of your relative's last residence does not guarantee acceptance for processing by that consulate. Acceptance is at the discretion of the designated consulate.)

### Other Information

If separate petitions are also being submitted for other relatives, give names of each and relationship.

Have you ever filed a petition for this or any other alien before?

Yes

No

If "Yes" give name, place and date of filing, and result.

Warning: The INS investigates claimed relationships and verifies the validity of documents. The INS seeks criminal prosecutions when family relationships are falsified to obtain visas.

Punalties: You may, by law be imprisoned for not more than five years, or fined \$250,000, or both, for entering into marriage contract for the purpose of evading any provision of the immigration laws and you may be fined up to \$250,000 or imprisoned up to five years or both, for knowingly and willfully falsifying or concealing a material fact or for giving any false document in submitting this petition.

Certification: I certify under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit that I am seeking.

Signature

Date

2/5/03

Phone Number

846-2793

### Nature of Person Preparing Form if Other than Above

I declare that I prepared this document at the request of the person above and that it is based on all information of which I have any knowledge.

Law Office of Charles E. Nichol, 350 Sansome Street, Suite 620  
San Francisco CA 94104

Print Name

(Address)

(Signature)

(Date)

02/05/03

0158

G-28 ID Number

Volag Number

**NOTICE TO PERSONS FILING FOR SPOUSES IF MARRIED LESS THAN TWO YEARS**

Pursuant to section 216 of the Immigration and Nationality Act, your alien spouse may be granted conditional permanent resident status in the United States as of the date he or she is admitted or adjusted to conditional status by an officer of the Immigration and Naturalization Service. Both you and your conditional permanent resident spouse are required to file a petition, Form I-751, Joint Petition to Remove Conditional Basis of Alien's Permanent Resident Status, during the ninety day period immediately before the second anniversary of the date your alien spouse was granted conditional permanent residence.

Otherwise, the rights, privileges, responsibilities and duties which apply to all other permanent residents apply equally to a conditional permanent resident. A conditional permanent resident is not limited to the right to apply for naturalization, to file petitions in behalf of qualifying relatives, or to reside permanently in the United States as an immigrant in accordance with the immigration laws.

**Failure to file Form I-751, Joint Petition to Remove the Conditional Basis of Alien's Permanent Resident Status, will result in termination of permanent residence status and initiation of deportation proceedings.**

**NOTE:** You must complete Items 1 through 6 to assure that petition approval is recorded.  
Do not write in the section below item 6.

1. Name of relative (Family name in CAPS)	(First)	(Middle)
TAYAG	Marie Cynthia	Kristel Engay
2. Other names used by relative	(Including maiden name)	
None		
3. Country of relative's birth	4. Date of relative's birth (Month/Day/Year)	
Philippines	07-27-85	
5. Your name (Last name in CAPS)	(First)	(Middle)
TAYAG, Efren Zapata	6. Your Phone Number 846-2793	

Action Stamp

SECTION	DATE PETITION FILED
<input type="checkbox"/> 201 (b)(spouse)	
<input type="checkbox"/> 201 (b)(child)	
<input type="checkbox"/> 201 (b)(parent)	
<input type="checkbox"/> 203 (a)(1)	
<input type="checkbox"/> 203 (a)(2)	<input type="checkbox"/> STATESIDE
<input type="checkbox"/> 203 (a)(4)	CRITERIA GRANTED
<input type="checkbox"/> 203 (a)(5)	SENT TO CONSUL AT:

**CHECKLIST**

Have you answered each question?

Have you signed the petition?

Have you enclosed:

- The filing fee for each petition?
- Proof of your citizenship or lawful permanent residence?
- All required supporting documents for each petition?

If you are filing for your husband or wife have you included:

- Your picture?
- His or her picture?
- Your G-325A?
- His or her G-325A?

## **EXHIBIT B**

US DHS  
SAN FRANCISCO  
RETAIN THIS RECEIPT

9:27AM Dec 9/04  
00-0000 001 SFR-AD  
#08939

A # 000000000  
Last Name TAYAG  
First Name MARIA CHITA

I-765 \$175.00  
I-130 SPOUSE \$185.00  
I-485 \$315.00  
FP-Fee/FD258 \$70.00

Check \$745.00

\*Official\*  
\*Document\*

U.S. CITIZENSHIP AND IMMIGRATION SERVICES  
630 SANSOME STREET  
SAN FRANCISCO, CALIFORNIA 94111

MARIA CHITA TAYAG  
EFREN ZAPATA TAYAG  
388 - 5TH STREET, APT. #2  
SAN FRANCISCO, CA 94107

FILE NUMBER: A 98 257 647  
DATE: 03/29/2005

Please come to the office shown below at the time and place indicated in connection with an official matter.

OFFICE LOCATION: 630 SANSOME STREET, ROOM 255  
SAN FRANCISCO, CA 94111

DATE AND TIME: 04/21/2005  
08 : 20 AM

OFFICER: D91 WRIGHT  
BD6

REASON FOR APPOINTMENT: APPLICATION FOR ADJUSTMENT OF STATUS

THIS INTERVIEW WILL BE VIDEO TAPE.

PLEASE BRING ALL ITEMS THAT ARE CHECKED (X) TO THE INTERVIEW.

- ✓  This letter, all passports, your I-94 arrival/departure form, if any, and INS approval notices and INS issued documents.
- ✓  Current photo I.D and proof of petitioners U.S.Citizenship /Lawful Resident status. PETITIONERS MUST APPEAR IN SPOUSAL CASES.
- ✓  A Current letter of employment for both spouses showing rate of pay and hours per week.
- ✓  The three (3) most current Federal 1040 Tax Returns and W-2's.
- ✓  Evidence supporting bona fides of the marital relationship, e.g. photos, bank stmts., leases, insurance policies, other.
- ✓  Certified, complete court records for any arrests. Original birth/marriage/divorce certificates for you, spouse, children.
- ✓  If you do not wish to surrender originals, bring legible photo copies.

---

DUE TO SECURITY PROCEDURES, PLEASE ARRIVE 30 MINUTES EARLY with a valid PASSPORT, STATE I.D., OR INS ISSUED VALID EAD OR PERMANENT RESIDENT CARD. Failure to appear or to bring requested documents may result in delay or denial of your application. If you do not appear on time you may rescheduled.

If you do not speak English, you must bring a disinterested 3rd party to interpret, with valid ID (Not attorney or petitioner)

ATTORNEY NOTIFIED: LAW OFFICE OF CHARLES E. NICHOL

PC10

U.S. Department of Homeland Security  
San Francisco, CA 94111

**U.S. Citizenship  
and Immigration  
Services**

MARIA CHITA ENGAY TAYAG A98 257 647

E-11(T)

 HAND-DELIVERED to applicant

4/21/2005

THIS LETTER IS IN REFERENCE TO YOUR APPLICATION FOR PERMANENT RESIDENCE.  
YOUR CASE HAS BEEN CONTINUED FOR THE REASON(S) CHECKED BELOW.

Visa Availability     Fingerprints     Security Clearance(s)     A-file(s)     Further Review  
 Documentation (listed below)     Other:

**IT IS REQUESTED THAT YOU SUBMIT THE FOLLOWING DOCUMENTS:**

- NEED RESULTS OF COURT CASE IN PHILIPPINES (APRIL 29, 2005)

YOU ARE ADVISED THAT YOU ARE GRANTED A PERIOD OF **NINETY (90)** DAYS FROM THE DATE OF THIS LETTER TO SUBMIT THE REQUESTED DOCUMENTS.

FAILURE TO COMPLY WITH THIS REQUEST WILL BE DEEMED GROUNDS FOR **DENIAL** OF YOUR APPLICATION FOR LACK OF PROSECUTION.

**PLEASE SEND REQUESTED DOCUMENTS  
WITH A COPY OF THIS LETTER TO:**

Sincerely,

David N. Still  
District Director

Citizenship and Immigration Service  
630 Sansome Street, Room 200  
San Francisco, CA 94111  
ATTN: E11/T

cc:

U.S. Department of Justice  
Immigration and Naturalization Service

For I-485, Application to Register Permanent Residence or Adjust Status

**START HERE - Please Type or Print**

**Part 1. Information about you.**

Middle Name:  
**Engay**

Family Name **TAYAG**

Given Name **Maria Chita**

Middle Initial **E**

Address - C/O

Street Number and Name **P.O. Box 347333**

Apt. #

City **San Francisco**

State **CA** Zip Code **94134**

Date of Birth (month/day/year) **04-08-57** Country of Birth **Philippines**

Social Security # **None** A # (if any) **None**

Date of Last Arrival (month/day/year) **12-10-03** I-94 # **20307763810**

Current INS Status **B-1/2** Expires on (month/day/year) **03-09-04**

**Part 2. Application Type. (check one)**

I am applying for adjustment to permanent resident status because:

- a.  an immigrant petition giving me an immediately available immigrant visa number has been approved.(Attach a copy of the approval notice—or a relative,special immigrant juvenile, or special immigrant military visa petition filed with this application that will give you an immediately available visa number, if approved.)
- b.  My spouse or parent applied for adjustment of status or was granted lawful permanent residence in an immigrant visa category which allows derivative status for spouses and children.
- c.  I entered as a K-1 fiance(e) of a U.S. citizen whom I married within 90 days of entry, or I am the K-2 child of such a fiance(e). (Attach a copy of the fiance(e) petition approval notice and the marriage certificate).
- d.  I was granted asylum or derivative asylum status as the spouse or child of a person granted asylum and am eligible for adjustment.
- e.  I am a native or citizen of Cuba admitted or paroled into the U. S. after January 1, 1959, and thereafter have been physically present in the U.S. for at least 1 year.
- f.  I am the husband, wife, or minor unmarried child of a Cuban described in (e) and am residing with that person, and was admitted or paroled into the U.S. after January 1, 1959, and thereafter and thereafter have been physically present in the U.S. for at least 1 year.
- g.  I have continuously resided in the U.S. since before January 1, 1972.
- h.  Other basis of eligibility.Explain.(If additional space is needed, use a separate piece of paper.)

I am already a permanent resident and am applying to have the date I was granted permanent residence adjusted to the date I originally arrived in the U.S. as a nonimmigrant or parolee, or as of May 2, 1964, whichever date is later, and: (Check one)

- i.  I am a native or citizen of Cuba and meet the description in (e), above.
- j.  I am the husband, wife or minor unmarried child of a Cuban, and meet the description in (f), above.

**FOR INS USE ONLY**

Returned	Receipt
Resubmitted	
Reloc Sent	
Reloc Rec'd	
<input type="checkbox"/> Applicant Interviewed	

**Section of Law**

- Sec. 209(b), INA
- Sec. 13, Act of 9/11/57
- Sec. 245, INA
- Sec. 249, INA
- Sec. 1 Act of 11/2/66
- Sec. 2 Act of 11/2/66
- Other \_\_\_\_\_

**Country Chargeable**

**Eligibility Under Sec. 245**

- Approved Visa Petition
- Dependent of Principal Alien
- Special Immigrant
- Other \_\_\_\_\_

**Preference**

**Action Block**

To Be Completed by  
**Attorney or Representative**, if any

- Fill in box if G-28 is attached to represent the applicant

**VOLAG#**

**ATTY State License # CA 146271**

**Part 3. Processing Information**

A. City/Town/Village of birth <b>Sorsogon</b>	Current occupation <b>Unemployed</b>
Your Mother's First Name <b>Paz</b>	Your Father's First Name <b>Antimo</b>

Give your name exactly as it appears on your Arrival /Departure Record (Form I-94)

**Maria Chita Engay Tahoori**

Place of Last Entry Into the U.S. (City/State) <b>Los Angeles, CA</b>	In what status did you last enter? (Visitor, Student, exchange alien, crewman, temporary worker, without inspection, etc.)	
Were you inspected by a U.S. Immigration Officer? <input checked="" type="checkbox"/> Yes <input type="checkbox"/> No	<b>Visitor</b>	
Nonimmigrant Visa Number <b>19983639210002</b>	Consulate where Visa was issued <b>Manila</b>	
Date Visa Was Issued (month/day/year) <b>01-04-99</b>	Sex: <input type="checkbox"/> Male <input checked="" type="checkbox"/> Female	Marital Status: <input checked="" type="checkbox"/> Married <input type="checkbox"/> Single <input type="checkbox"/> Divorced <input type="checkbox"/> Widowed

Have you ever before applied for permanent resident status in the U.S?  No  Yes If you checked "Yes," give date and place of filing and final disposition.**B. List your present husband/wife, all your sons and daughters (if you have none, write "none". If additional space is needed, use separate paper).**

Family Name <b>Tayag</b>	Given Name <b>Efren</b>	Middle Initial <b>Zapata</b>	Date of Birth (month/day/year) <b>07-20-38</b>
Country of birth <b>Philippines</b>	Relationship <b>Spouse</b>	A # <b>A41-240-867</b>	Applying with you? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Family Name <b>Tayag</b>	Given Name <b>Marie Cynthia Kristel</b>	Middle Initial <b>Engay</b>	Date of Birth (month/day/year) <b>07-27-85</b>
Country of birth <b>Philippines</b>	Relationship <b>Daughter</b>	A # <b>None</b>	Applying with you? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)
Country of birth	Relationship	A #	Applying with you? <input type="checkbox"/> Yes <input type="checkbox"/> No
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)
Country of birth	Relationship	A #	Applying with you? <input type="checkbox"/> Yes <input type="checkbox"/> No
Family Name	Given Name	Middle Initial	Date of Birth (month/day/year)
Country of birth	Relationship	A #	Applying with you? <input type="checkbox"/> Yes <input type="checkbox"/> No

C. List your present and past membership in or affiliation with every political organization, association, fund, foundation, party, club, society, or similar group in the United States or in any other place since your 16th birthday. Include any foreign military service in this part. If none write "none". Include the name(s) of organization(s), location(s), dates of membership from and to, and the nature of the organization (s). If additional space is needed, use a separate piece of paper.

**None**

**Part 3. Processing Information. (Continued)**

Please answer the following questions. (If your answer is "Yes" to any of these questions, explain on a separate piece of paper. Answering "Yes" does not necessarily mean that you are not entitled to adjust your status or register for permanent residence.)

1. Have you ever, in or outside the U.S.:
  - a. knowingly committed any crime of moral turpitude or a drug-related offense for which you have not been arrested?  Yes  No
  - b. been arrested, cited, charged, indicted, fined, or imprisoned for breaking or violating any law or ordinance, excluding traffic violations?  Yes  No
  - c. been the beneficiary of a pardon, amnesty, rehabilitation decree, other act of clemency or similar action?  Yes  No
  - d. exercised diplomatic immunity to avoid prosecution for a criminal offense in the U.S.?  Yes  No
2. Have you received public assistance in the U.S. from any source, including the U.S. government or any state, county, city, or municipality (other than emergency medical treatment), or are you likely to receive public assistance in the future?  Yes  No
3. Have you ever:
  - a. within the past ten years been a prostitute or procured anyone for prostitution, or intend to engage in such activities in the future?  Yes  No
  - b. engaged in any unlawful commercialized vice, including, but not limited to, illegal gambling?  Yes  No
  - c. knowingly encouraged, induced, assisted, abetted or aided any alien to try to enter the U.S. illegally?  Yes  No
  - d. illicitly trafficked in any controlled substance, or knowingly assisted, abetted or colluded in the trafficking of any controlled substance?  Yes  No
4. Have you ever engaged in, conspired to engage in, or do you intend to engage in, or have you ever solicited membership or funds for, or have you through any means ever assisted or provided any type of material support to, any person or organization that has ever engaged or conspired to engage, in sabotage, kidnapping, political assassination, hijacking, or any other form of terrorist activity?  Yes  No
5. Do you intend to engage in the U.S. in:
  - a. espionage?  Yes  No
  - b. any activity a purpose of which is opposition to, or the control or overthrow of, the Government of the United States, by force, violence or other unlawful means?  Yes  No
  - c. any activity to violate or evade any law prohibiting the export from the United States of goods, technology or sensitive information?  Yes  No
6. Have you ever been a member of, or in any way affiliated with, the Communist Party or any other totalitarian party?  Yes  No
7. Did you, during the period March 23, 1933 to May 8, 1945, in association with either the Nazi Government of Germany or any organization or government associated or allied with the Nazi Government of Germany, ever order, incite, assist or otherwise participate in the persecution of any person because of race, religion, national origin or political opinion?  Yes  No
8. Have you ever engaged in genocide, or otherwise ordered, incited, assisted or otherwise participated in the killing of any person because of race, religion, nationality, ethnic origin, or political opinion?  Yes  No
9. Have you ever been deported from the U.S., or removed from the U.S. at government expense, excluded within the past year, or are you now in exclusion or deportation proceedings?  Yes  No
10. Are you under a final order of civil penalty for violating section 274C of the Immigration Act for use of fraudulent documents, or have you, by fraud or willful misrepresentation of a material fact, ever sought to procure, or procured, a visa, other documentation, entry into the U.S., or any other immigration benefit?  Yes  No
11. Have you ever left the U.S. to avoid being drafted into the U.S. Armed Forces?  Yes  No
12. Have you ever been a J nonimmigrant exchange visitor who was subject to the 2 year foreign residence requirement and not complied with that requirement or obtained a waiver?  Yes  No
13. Are you now withholding custody of a U.S. Citizen child outside the U.S. from a person granted custody of the child?  Yes  No
14. Do you plan to practice polygamy in the U.S.?  Yes  No

**Part 4. Signature.**

(Read the information on penalties in the instructions before completing this section. You must file this application while in the United States.)

I certify under penalty of perjury under the laws of the United States of America that this application and the evidence submitted with it, is all true and correct. I authorize the release of any information from my records which the INS needs to determine eligibility for the benefit I am seeking.

Selective Service Registration. The following applies to you if you are a man at least 18 years old, but not yet 26 years old, who is required to register with the Selective Service System: I understand that my filing this adjustment of status with the Immigration and Naturalization Service authorizes the INS to provide certain registration information to the Selective Service System in accordance with the Military Selective Service Act. Upon INS acceptance of my application, I authorize INS to transmit to the Selective Service System my name, address, Social Security number, date of birth and the date I filed the application for the purpose of recording my Selective Service registration as of the filing date. If, however, the INS does not accept my application, I further understand that, if so required, I am responsible for registering with the Selective Service by other means, provided I have not yet reached age 26.

*Signature* *Maria Chita Engay Tayag* *Print Your Name* *Maria Chita Engay Tayag* *Date* *Oct. 29, 2001* *Daytime Phone Number* *415-846-2793* *415-271-0243 MC*

*Please Note:* If you do not completely fill out this form, or fail to submit required documents listed in the instructions, you may not be found eligible for the requested document and this application may be denied.

**Part 5. Signature of person preparing form if other than above. (Sign Below)**

I declare that I prepared this application at the request of the above person and it is based on all information of which I have knowledge.

*Signature* *Charles E. Nichol* *Print Your Name* *Charles E. Nichol* *Date* *10/29/01* *Day time Phone Number* *415-362-4088*  
*Firm Name and Address* *Law Office of Charles E. Nichol, 350 Sansome Street, Suite 620*  
*San Francisco CA 94104*

U.S. Department of Justice  
Immigration and Naturalization Service

OMB No. 1115-0054

## Petition for Alien Relative

## DO NOT WRITE IN THIS BLOCK - FOR EXAMINING OFFICE ONLY

A#	Action Stamp
Section of Law/Visa Category	
<input type="checkbox"/> 201 (b) spouse - IR-1/CR-1	
<input type="checkbox"/> 201 (b) child - IR-2/CR-2	
<input type="checkbox"/> 201 (b) parent - IR-5	
<input type="checkbox"/> 203(a)(1) Unm. S or D - F1-1	
<input type="checkbox"/> 203(a)(2)(A) Spouse - F2-1	
<input type="checkbox"/> 203(a)(2)(A) Child - F2-2	
<input type="checkbox"/> 203(a)(2)(B) Unm. S or D - F2-4	
<input type="checkbox"/> 203(a)(3) Married S or D - F3-1	
<input type="checkbox"/> 203(a)(4) Brother/Sister - F4-1	

Fee Stamp
Petition was filed on: _____ (priority date)
<input type="checkbox"/> Personal Interview <input type="checkbox"/> Previously Forwarded
<input type="checkbox"/> Pet. <input type="checkbox"/> Ben. "A" File Reviewed <input type="checkbox"/> I-485 Filed Simultaneously
<input type="checkbox"/> Field Investigations <input type="checkbox"/> 204(g) Resolved
<input type="checkbox"/> 203(a)(2)(A) Resolved <input type="checkbox"/> 203(g) Resolved

Remarks:

## A. Relationship You are the petitioner; your relative is the beneficiary.

1. I am filing this petition for my:	2. Are you related by adoption?	3. Did you gain permanent residence through adoption?
<input checked="" type="checkbox"/> Husband/Wife <input type="checkbox"/> Parent <input type="checkbox"/> Brother/Sister <input type="checkbox"/> Child	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<input type="checkbox"/> Yes <input checked="" type="checkbox"/> No

## B. Information about you

1. Name (Family name in CAPS)	(First)	(Middle)
TAYAG, Efren Zapata		
2. Address (Number and Street)	(Apt. No.)	
995 Howard Street	205	
(Town or City)	(State/Country)	(ZIP/Postal Code)
San Francisco	CA USA	94103
3. Place of Birth (Town or City)	(State/Country)	
Manila	Phillipines	Phillippines
4. Date of Birth (Month/Day/Year)	5. Gender	6. Marital Status
07/20/1938	<input checked="" type="checkbox"/> Male <input type="checkbox"/> Female	<input checked="" type="checkbox"/> Married <input type="checkbox"/> Widowed <input type="checkbox"/> Single <input type="checkbox"/> Divorced

7. Other Names Used (including maiden name)  
None8. Date and Place of Present Marriage (if married)  
01/16/1996; Caloocan City Philippines9. Social Security Number (if any) 10. Alien Registration Number  
358-76-8980 A41-240-86711. Name(s) of Prior Husband(s)/Wife(s) 12. Date(s) Marriage(s) Ended  
Estelita Pineda 09/09/1994

## 13. If you are a U.S. citizen, complete the following:

My citizenship was acquired through (check one)

 Birth in the U.S. Naturalization. (Give certificate number and date and place of issuance.)

28219534 05/18/2004 San Francisco, CA

 Parents. Have you obtained a certificate of citizenship in your own name? Yes. Give certificate number, date and place of issuance  No

14a. If you are a lawful permanent resident alien, complete the following: Date and place of admission for, or adjustment to, lawful permanent residence and class of admission:

14b. Did you gain permanent resident status through marriage to a United States citizen or lawful permanent resident?

 Yes  No13. Has your relative ever been to the U.S.?  Yes  No

14. If your relative is currently in the U.S., complete the following:

He or she last arrived as a:  Visitor  
(visitor, student, stowaway, without inspection, etc.)Arrival/Departure Record (I-94) Number Date arrived (Month/Day/Year)  
12013-017763810 12/10/2003

Date authorized stay expired, or will expire, as shown on Form I-94 or I-95 03-09-04

15. Name and address of present employer (if any)  
UnemployedDate this employment began (Month/Day/Year)  
12-2003

16. Has your relative ever been under immigration proceedings?

 No  Yes Where \_\_\_\_\_ When \_\_\_\_\_  
 Removal  Exclusion/Deportation  Rescission  Judicial Proceedings

INITIAL RECEIPT \_\_\_\_\_ RESUBMITTED \_\_\_\_\_ RELOCATED: Rec'd \_\_\_\_\_ Sent \_\_\_\_\_ COMPLETED: App'd \_\_\_\_\_ Denied \_\_\_\_\_ Ret'd \_\_\_\_\_

0329/0184

Form I-130 (Rev. 03/19/02) Y

**C. Information about your alien relative (continued)**

17. List husband/wife and all children of your relative (Name) <b>Efren Zapata Tayag</b>		(Relationship) <b>Spouse</b>	(Date of Birth) <b>07/20/1938</b>	(Country of Birth) <b>Philippines</b>
Marie Cynthia Kristel Engay Tayag		Daughter	07/27/1985 Philippines	

18. Address in the United States where your relative intends to live.

(Street Address)  
**995 Howard Street, Apt No 205**      (Town or City) **San Francisco**      (State) **CA**

19. Your relative's address abroad. (include street, city, province and country)

**995 Howard Street, Apt No 205, San Francisco, CA, USA**      Phone Number (if any)  
**415-978-2706**

20. If your relative's native alphabet is other than Roman letters, write his or her name and foreign address in the native alphabet:

(Name) **N/A**      Address (include street, city, province and country):

21. If filing for your husband/wife, give last address at which you both lived together. (Include street, city, province, if any, and country)

From: \_\_\_\_\_ To: \_\_\_\_\_  
(Month) (Year)      (Month) (Year)

22. Complete the information below if your relative is in the United States and will apply for adjustment of status

Your relative is in the United States and will apply for adjustment of status to that of a lawful permanent resident at the office of the Immigration and Naturalization Service in **San Francisco, CA**. If your relative is not eligible for adjustment of status, he or she will apply for a visa abroad at the American consular post in \_\_\_\_\_ (City) \_\_\_\_\_ (State) \_\_\_\_\_ (Country)

NOTE: Designation of an American Embassy or consulate outside the country of your relative's last residence does not guarantee acceptance for processing by that post. Acceptance is at the discretion of the designated embassy or consulate.

**D. Other Information**

1. If separate petitions are also being submitted for other relatives, give names of each and relationship.

2. Have you ever filed a petition for this or any other alien before?  Yes  No  
If "Yes" give name, place and date of filing, and result.

**Marie Cynthia Kristel Tayag**      \*See Addenda\*      **02/28/2003 Still pending**

**WARNING:** The INS investigates claimed relationships and verifies the validity of documents. The INS seeks criminal prosecutions when family relationships are falsified to obtain visas.

**PENALTIES:** By law, you may be imprisoned for not more than five years, or fined \$250,000, or both, for entering into a marriage contract for the purpose of evading any provision of the immigration laws. In addition, you may be fined up to \$10,000 and imprisoned for up to five years or both, for knowingly and willfully falsifying or concealing a material fact or using any false document in submitting this petition.

**YOUR CERTIFICATION:** I certify, under penalty of perjury under the laws of the United States of America, that the foregoing is true and correct. Furthermore, I authorize the release of any information from my records which the Immigration and Naturalization Service needs to determine eligibility for the benefit that I am seeking.

**E. Signature of Petitioner**

Date **10/29/01** Phone Number **415-978-2706**

**F. Signature of Person preparing this form, if other than the petitioner**

I declare that I prepared this document at the request of the person above and that it is based on all information of which I have any knowledge.

Print Name **Charles E Nichol**      Signature **Charles E. Nichol**      Date **10/29/01**

Address **Law Office of Charles E. Nichol, 350 Sansome Street, Suite 620, San Francisco, CA 94104**      G-28 ID or VOLAG Number, if any.

## D2. List of individuals for whom petitions were previously filed.

Name	Place of filing	Date	Results
Marie Cynthia Kristel Tayag	California Service Center	02/28/2003	Still pending

**CIVIL COVER SHEET**

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON PAGE TWO OF THE FORM.)

**I. (a) PLAINTIFFS**

Efren Tayag and Maria Tayag

**DEFENDANTS**

Rosemary Melville and Michael B. Mukasey

(b) County of Residence of First Listed Plaintiff San Francisco  
(EXCEPT IN U.S. PLAINTIFF CASES)

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

(c) Attorney's (Firm Name, Address, and Telephone Number)

Jonathan M. Kaufman  
220 Montgomery Street, Suite 976  
San Francisco, CA 94104  
(415) 956-4765

Attorneys (If Known)

U.S. Attorney  
450 Golden Gate Avenue  
San Francisco, CA 94102**II. BASIS OF JURISDICTION** (Place an "X" in One Box Only)

<input type="checkbox"/> 1 U.S. Government Plaintiff	<input type="checkbox"/> 3 Federal Question (U.S. Government Not a Party)
<input checked="" type="checkbox"/> 2 U.S. Government Defendant	<input type="checkbox"/> 4 Diversity (Indicate Citizenship of Parties in Item III)

**III. CITIZENSHIP OF PRINCIPAL PARTIES** (Place an "X" in One Box for Plaintiff and One Box for Defendant)

	PTF	DEF	PTF	DEF	
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6

**IV. NATURE OF SUIT** (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> PERSONAL INJURY	<input type="checkbox"/> 422 Appeal 28 USC 158	<input type="checkbox"/> 400 State Reapportionment
<input type="checkbox"/> 120 Marine	<input type="checkbox"/> 310 Airplane	<input type="checkbox"/> 362 Personal Injury—Med. Malpractice	<input type="checkbox"/> 423 Withdrawal 28 USC 157	<input type="checkbox"/> 410 Antitrust
<input type="checkbox"/> 130 Miller Act	<input type="checkbox"/> 315 Airplane Product Liability	<input type="checkbox"/> 365 Personal Injury — Product Liability		<input type="checkbox"/> 430 Banks and Banking
<input type="checkbox"/> 140 Negotiable Instrument	<input type="checkbox"/> 320 Assauk, Libel & Slander	<input type="checkbox"/> 368 Asbestos Personal Injury Product Liability		<input type="checkbox"/> 450 Commerce
<input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment	<input type="checkbox"/> 330 Federal Employers' Liability	<input type="checkbox"/> 370 Other Fraud		<input type="checkbox"/> 460 Deportation
<input type="checkbox"/> 151 Medicare Act	<input type="checkbox"/> 340 Marine	<input type="checkbox"/> 371 Truth in Lending		<input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations
<input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans)	<input type="checkbox"/> 345 Marine Product Liability	<input type="checkbox"/> 380 Other Personal Property Damage	<input type="checkbox"/> 820 Copyrights	<input type="checkbox"/> 480 Consumer Credit
<input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits	<input type="checkbox"/> 350 Motor Vehicle	<input type="checkbox"/> 385 Property Damage	<input type="checkbox"/> 830 Patent	<input type="checkbox"/> 490 Cable/Sat TV
<input type="checkbox"/> 160 Stockholders' Suits	<input type="checkbox"/> 355 Motor Vehicle Product Liability	<input type="checkbox"/> 390 Other Product Liability	<input type="checkbox"/> 840 Trademark	<input type="checkbox"/> 810 Selective Service
<input type="checkbox"/> 190 Other Contract	<input type="checkbox"/> 360 Other Personal Injury			<input type="checkbox"/> 850 Securities/Commodities/ Exchange
<input type="checkbox"/> 195 Contract Product Liability				<input type="checkbox"/> 875 Customer Challenge 12 USC 3410
<input type="checkbox"/> 196 Franchise				<input type="checkbox"/> 890 Other Statutory Actions
REAL PROPERTY	CIVIL RIGHTS	PRIISONER PETITIONS	SOCIAL SECURITY	<input type="checkbox"/> 891 Agricultural Acts
<input type="checkbox"/> 210 Land Condemnation	<input type="checkbox"/> 441 Voting	<input type="checkbox"/> 510 Motions to Vacate Sentence	<input type="checkbox"/> 861 HIA (1395ff)	<input type="checkbox"/> 892 Economic Stabilization Act
<input type="checkbox"/> 220 Foreclosure	<input type="checkbox"/> 442 Employment	<input type="checkbox"/> 520 General Habeas Corpus:	<input type="checkbox"/> 862 Black Lung (923)	<input type="checkbox"/> 893 Environmental Matters
<input type="checkbox"/> 230 Rent Lease & Ejectment	<input type="checkbox"/> 443 Housing/ Accommodations	<input type="checkbox"/> 530 Death Penalty	<input type="checkbox"/> 863 DIWC/DIWW (405(g))	<input type="checkbox"/> 894 Energy Allocation Act
<input type="checkbox"/> 240 Torts to Land	<input type="checkbox"/> 444 Welfare	<input type="checkbox"/> 540 Mandamus & Other Employment	<input type="checkbox"/> 864 SSID Title XVI	<input type="checkbox"/> 895 Freedom of Information Act
<input type="checkbox"/> 245 Tort Product Liability	<input type="checkbox"/> 445 Amer. w/Disabilities - Employment	<input type="checkbox"/> 550 Civil Rights	<input type="checkbox"/> 865 RSI (405(g))	<input type="checkbox"/> 900Appeal of Fee Determination Under Equal Access to Justice
<input type="checkbox"/> 290 All Other Real Property	<input type="checkbox"/> 446 Amer. w/Disabilities - Other	<input type="checkbox"/> 555 Prison Condition		<input type="checkbox"/> 950 Constitutionality of State Statutes
			FEDERAL TAX SUITS	
			<input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant)	
			<input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	

**V. ORIGIN** (Place an "X" in One Box Only)

<input checked="" type="checkbox"/> 1 Original	<input type="checkbox"/> 2 Removed from State Court	<input type="checkbox"/> 3 Remanded from Appellate Court
--	---	--

Transferred from

<input type="checkbox"/> 4 Reinstated or Reopened	<input type="checkbox"/> 5 another district (specify)
---	---

<input type="checkbox"/> 6 Multidistrict Litigation
---

Appeal to District

<input type="checkbox"/> 7 Judge from Magistrate Judgment
---

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 USC 1331, 5 USC 701-706

Brief description of cause:

complaint for declaratory judgment and injunction

**VII. REQUESTED IN COMPLAINT:**

<input type="checkbox"/> CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23	DEMAND \$
--	-----------

CHECK YES only if demanded in complaint:  
**JURY DEMAND:**  Yes  No**VIII. RELATED CASE(S) IF ANY**

PLEASE REFER TO CIVIL L.R. 3-12 CONCERNING REQUIREMENT TO FILE "NOTICE OF RELATED CASE".

**IX. DIVISIONAL ASSIGNMENT (CIVIL L.R. 3-2)  
(PLACE AND "X" IN ONE BOX ONLY)** SAN FRANCISCO/OAKLAND SAN JOSE

DATE

6/5/08

SIGNATURE OF ATTORNEY OF RECORD